

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0781-01  
Bill No.: HB 183  
Subject: State Attorney General; Business and Commerce; Science and Technology  
Type: Original  
Date: February 13, 2003

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**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
None			
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Merchandising Practices Revolving	\$0	(\$199,377 to \$499,377)	(\$165,477 to \$465,477)
<b>Total Estimated Net Effect on Other State Funds</b>	<b>\$0</b>	<b>(\$199,377 to \$499,377)</b>	<b>(\$165,477 to \$465,477)</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 7 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2004</b>	<b>FY 2005</b>	<b>FY 2006</b>
None			
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2004</b>	<b>FY 2005</b>	<b>FY 2006</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

### **FISCAL ANALYSIS**

#### **ASSUMPTION**

Officials from the **Department of Economic Development, Department of Revenue,** and the **Office of State Public Defender** assume the proposed legislation would have no fiscal impact on their agencies.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

Officials from the **Office of Prosecution Services** assume the proposed legislation would have no fiscal impact on prosecutors.

ASSUMPTION (continued)

Officials from the **Office of Secretary of State (SOS)** assume the proposal creates a no-spam list in the Attorney General's Office for unsolicited commercial e-mail and would result in the Attorney General's promulgation of rules to implement the provisions of this act. These rules will be published in the *Missouri Register* and the *Code of State Regulations*. Based on experience with other divisions, the rules, regulations, and forms issued by the Committee could require as many as 34 pages in the *Code of State Regulations* and half again as many pages in the *Missouri Register*, as cost statements, fiscal notes, and the like are not repeated in the Code. The estimated cost of a page in the *Missouri Register* is \$23 and the estimated cost of a page in the *Code of State Regulations* is \$27. Based on these costs, the estimated cost of the proposal is \$2,091 in FY 04 and unknown in subsequent years. The actual cost could be more or less than the numbers given. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded, or withdrawn.

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which would require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

Officials from the **Department of Corrections (DOC)** assume they could not predict the number of new commitments which could result from the creation of the offense(s) outlined in the proposal. An increase in commitments would depend on the utilization of prosecutors and the actual sentences imposed by the courts.

If additional persons were sentenced to the custody of the DOC due to the provisions of this legislation, the DOC would incur a corresponding increase in operational costs either through incarceration (FY 02 average of \$35.52 per inmate per day, or an annual cost of \$12,965 per inmate) or through supervision provided by the Board of Probation and Parole (FY 02 average \$3.10 per offender per day, or an annual cost of \$1,132 per offender).

The following factors contribute to DOC's minimal assumption:

- DOC assumes the narrow scope of the crime will not encompass a large number of offenders.
- The low felony status of the crime enhances the possibility of plea-bargaining or imposition of a probation sentence.

ASSUMPTION (continued)

- The probability exists that offenders would be charged with a similar but more serious offense or that sentences may run concurrent to one another.

In summary, supervision by the DOC through probation or incarceration would result in some additional costs, but DOC officials assume that the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials from the **Office of Attorney General (AGO)** assume they would require one FTE Assistant Attorney General IV (at \$50,000 per year, plus fringe benefits) and four FTE Investigators (each at \$27,500 per year, plus fringe benefits) to implement this proposal. Because the AGO has already developed a complaint intake system under the No Call Law, the AGO assumes it can absorb any additional complaints within the existing system. However, the AGO assumes additional mailings will be required to verify and maintain an accurate subscriber list for those subscribers that choose not to be contacted by e-mail. In FY 2005, the AGO assumes that 300,000 subscribers will sign up. At a cost of \$2 per subscriber, the AGO estimates the cost in FY 2005 to be \$0 to \$300,000. This assumes no more than 50% of subscribers will choose to receive confirmation by mail. The AGO assumes this cost will carry over in future fiscal years to the extent that certain subscribers will continue to prefer receiving e-mail address verification by U.S. Mail.

Because this law will not take effect until July 1, 2004, the AGO assumes any costs incurred during FY 2004 could be absorbed. AGO assumes costs in FY 2005 and thereafter would be appropriated from the Merchandising Practices Revolving Fund because Section 407.1141 allows the general assembly to appropriate monies from this fund. Also, the AGO assumes that 1,200 Internet marketers would purchase a copy of the list on a quarterly basis. This number is based on the 1,210 telemarketers who currently purchase copies of the No Call List. Based on \$100 per year per Internet marketer, AGO assumes that providing the list would generate, at a minimum, \$120,000. AGO also assumes it will recover unknown amounts through enforcement actions.

The AGO estimates the net fiscal impact of the proposal to be a cost of \$199,377 to \$499,377 in FY 2005; and a cost of \$165,477 to \$465,477 in FY 2006.

<u>FISCAL IMPACT - State Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
<b>MERCHANDISING PRACTICES REVOLVING FUND</b>			
<u>Revenue</u> – Office of Attorney General			
Sale of subscriber list	<u>\$0</u>	<u>\$120,000</u>	<u>\$120,000</u>
<u>Total Revenue</u> – AGO	\$0	\$120,000	\$120,000
<u>Costs</u> – Office of Attorney General			
Personal Service (5 FTE)	\$0	(\$160,000)	(\$164,000)
Fringe Benefits	\$0	(\$64,752)	(\$66,371)
Equipment and Expense	\$0	(\$94,625 to <u>\$394,625</u> )	(\$55,106 to <u>\$355,106</u> )
<u>Total Costs</u> – AGO	\$0	(\$319,377 to <u>\$619,377</u> )	(\$28,477 to <u>\$585,477</u> )
<b>ESTIMATED NET EFFECT ON MERCHANDISING PRACTICES REVOLVING FUND</b>	<u>\$0</u>	<u>(\$199,377 to \$499,377)</u>	<u>(\$165,477 to \$465,477)</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Small businesses who use unsolicited electronic mail could experience a fiscal impact as a result of this legislation.

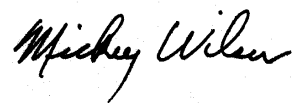
## DESCRIPTION

The proposed legislation would require the Attorney General to develop and maintain a list of consumers who have registered their objection to receiving unsolicited commercial e-mail. Rules would be promulgated by February 1, 2004, and no one could transmit unsolicited e-mail to list members after July 1, 2004. Replies to messages sent by the consumer and e-mail from senders that have an ongoing business relationship with the consumer would be exempt. Funding to establish and administer the list could be appropriated from the Merchandising Practices Revolving Fund and other sources. The proposal would also require anyone who sends commercial e-mail to any consumer in Missouri to identify themselves clearly at the beginning of the message. The Attorney General could initiate proceedings against violators, impose injunctions and civil penalties of up to \$5,000 for each violation, and seek additional relief. Violators would also be subject to penalties provided in merchandising practices law. State courts could exercise personal jurisdiction over nonresidents. The statute of limitations would be two years, and Internet service providers that carry unsolicited e-mail initiated by others would not be liable for violations.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

## SOURCES OF INFORMATION

Office of Attorney General  
Office of State Courts Administrator  
Department of Economic Development  
Department of Corrections  
Department of Revenue  
Office of Prosecution Services  
Office of Secretary of State  
Office of State Public Defender



Mickey Wilson, CPA

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